

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JOHN DOE, JOHN DOE, SR. and JANE
DOE,

Case No.: 3 CV 02-0444

Plaintiff,
vs.

Judge: Hon. John E. Jones

FATHER ERIC ENSEY, FATHER
CARLOS URRUTIGOITY, DIOCESE OF
SCRANTON, BISHOP JAMES C. TIMLIN,
THE SOCIETY OF ST. JOHN, THE
PRIESTLY FRATERNITY OF ST. PETER
and ST. GREGORY'S ACADEMY,

Defendant.

**AFFIDAVIT OF COUNSEL MADE PURSUANT
TO CIVILRULE 56 (f)**

James Bendell, being first duly sworn, deposes and says:

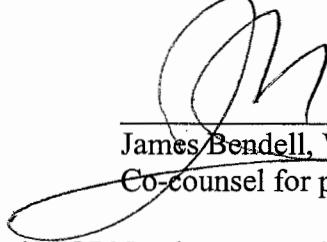
1. I am co-counsel for the plaintiffs in this case.
2. I make this opposition pursuant to Civil Rule 56 (f), requesting that the court not rule on the three pending motions for summary judgment until the psychological records of Fr. Ensey and Fr. Urrutigoity have been turned over to plaintiffs' counsel.
3. Based upon my knowledge and experience in this field of law, I believe it highly that the psychological records of these two priests contain information potentially relevant to the present summary judgment motions. Here are some examples:

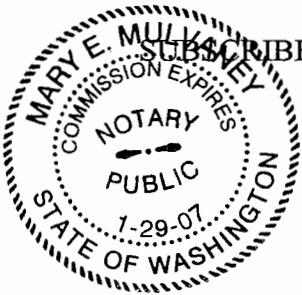
4. Most psycho-sexual evals include a detailed sexual history taken with a polygraph.

These two priests may have admitted molesting plaintiff John Doe and may have further revealed the precise dates these molestations occurred.

5. Correspondence may exist between the Southdown Institute and Bishop Timlin and/or the Diocese which could further reveal when the Diocese had knowledge of the priests' sexual deviance. The correspondence may also reveal other complaints made against these priests.

6. In making this affidavit I am not requesting any new discovery. The court has already ordered the production of Fr. Urrutigoity's records. The only reason they have not been turned over to plaintiffs' counsel is because of defendants' attempted interlocutory appeal to the Third Circuit. With respect to the records of Fr. Ensey that the Southdown Institute refuses to send to this court, I have retained a Canadian attorney who is in the process of filing an action in Canada to compel the Southdown Institute to send Ensey's records to the court.

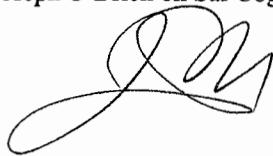

James Bendell, WSBA # 20820
Co-counsel for plaintiffs



Subscribed AND SWORN to before me this 17 day of July, 2004.


NOTARY PUBLIC residing at Port Townsend, WA
My commission expires 1-29-07

I certify that I caused a true copy of this pleading
to be sent my electronic mail to Joseph Leeson,
Joseph O'Brien on Sal Cognetti on 7/18, 2004.



AFFIDAVIT OF JAMES BENDELL - 2